

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PAULINE MONTGOMERY,

Plaintiff,

v.

CDCR CORRECTIONS OFFICER, *et al.*,

Defendants.

Case No. 1:23-cv-00439-ADA-BAM (PC)

ORDER STRIKING UNSIGNED MOTION
(ECF No. 7)

PLAINTIFF'S SIGNED COMPLAINT AND
APPLICATION TO PROCEED *IN FORMA*
PAUPERIS (OR PAY FILING FEE) DUE:
JUNE 12, 2023

Plaintiff Pauline Montgomery ("Plaintiff") is a state prisoner and former county jail inmate proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983.

On March 24, 2023, the Court ordered Plaintiff to file an application to proceed *in forma pauperis*, completed and signed, including a certified copy of her trust account statement for the past six months, or in the alternative, to pay the \$402.00 filing fee for this action. (ECF No. 3.) Plaintiff was also directed to file a signed complaint, not to exceed 25 pages in length, or a notice of voluntary dismissal. (*Id.*)

On April 24, 2023, Plaintiff filed a notice of change of address. (ECF No. 6.) The Court re-served the March 24, 2023 order on Plaintiff at her new address of record the same date. Plaintiff's signed complaint and application to proceed *in forma pauperis* (or payment of the filing fee) are now due on or before June 12, 2023.

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1 Currently before the Court is a document filed May 8, 2023, docketed as a motion for
2 extension of time. (ECF No. 7.) Although the document does not contain Plaintiff's name or
3 signature, it appears to be a letter from Plaintiff to the Court. Plaintiff states that she is writing
4 concerning her criminal felony conviction, which she is appealing. She seeks an extension of
5 time to turn in her appeal because she is in the process of transferring institutions and will not
6 have access to her property during that time. Plaintiff further writes that she is making a
7 complaint about an officer who assaulted her 2016. Plaintiff states that she needs representation
8 to help her get copies of the video footage of the incident. (*Id.*)

9 Plaintiff's motion is not signed. As Plaintiff was previously informed, both the Federal
10 Rules of Civil Procedure and this Court's Local Rules require that all filed pleadings, motions and
11 papers be signed by at least one attorney of record or by the party personally if the party is
12 unrepresented. Fed. R. Civ. P. 11(a); Local Rule 131(b). As the motion is unsigned, the Court
13 must strike it from the record. Plaintiff is cautioned that **all future filings must include a**
14 **signature**, and any motion or filing that does not contain a signature will also be stricken from
15 the record.

16 To the extent Plaintiff is requesting relief, such as an extension of time or appointment of
17 counsel, in relation to a pending criminal appeal, Plaintiff is informed that this action is not the
18 appropriate forum for obtaining such relief. **This action is a civil rights action, and will have**
19 **no effect on any criminal actions or direct appeals of convictions.**

20 Plaintiff is reminded that she must file a signed complaint and application to proceed *in*
21 *forma pauperis* (or payment of the filing fee) in order to continue proceeding in this civil rights
22 action.

23 Based on the foregoing, IT IS HEREBY ORDERED as follows:

- 24 1. Plaintiff's motion for extension of time, (ECF No. 7), is STRICKEN from the record for
25 lack of signature;
- 26 2. The Clerk of the Court is directed to serve this order, a blank *in forma pauperis*
27 application for a prisoner, and a civil rights complaint form on Plaintiff;

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3. On or before **June 12, 2023**, Plaintiff SHALL file:

- a. The attached application to proceed *in forma pauperis*, completed and signed, including a certified copy of her trust account statement for the past six months, or in the alternative, pay the \$402.00 filing fee for this action; and
- b. A signed complaint, **not to exceed 25 pages in length**, or a notice of voluntary dismissal; and

4. **Plaintiff is warned that the failure to comply with this order will result in dismissal of this action, without prejudice.**

IT IS SO ORDERED.

Dated: **May 10, 2023**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE